IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.1472 OF 2004

Shri Ganesh Dattoba Gandhile : Petitioner

V/s.

The State of Maharashtra & Ors. : Respondents

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Mr.S.P.Kadam for the petitioner.

Mr.S.K.Chinchalikar, Asstt. Govt. Pleader, for the respondent nos.1 and 2.

Mr.R.V. More for the respondent nos.4 and 6.

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CORAM : S.A. BOBDE, J.

July 8, 2005.

P.C.:

1. Rule, returnable forthwith.

Mr.Chinchalikar, learned Asstt. Govt. Pleader for the respondent nos.1 and 2, and Mr.More for the respondent nos.4 and 6, appear and waive service of rule. Heard by consent.

2. The petitioner’s termination has been upheld on the ground that he had passed the SET examination in February 2002 and that this fact cannot relate back to the date of

the appointment of the petitioner. This is an obvious error of law apparent on the face of the order. The appointment was made subject to the petitioner's passing the NET or SET examination. Therefore, the subsequent passing need not relate back to the date of the appointment.

3. Moreover, this view of the Tribunal is not prima facie in accordance with the judgement of this Court in Vishwaprakash v. State of Maharashtra [2003 (2) Mh.L.J. 176].

4. In the circumstances, the impugned order is set aside. The matter is remitted back to the Tribunal for a fresh decision, in accordance with law. All contentions of the parties, except the one decided above, are left open. The Tribunal is directed to dispose of the matter, as expeditiously as possible and, in any case, not later than six months from the date the parties appear before it. The parties are directed to appear before the Tribunal on 18.7.2005.

5. The rule is made absolute in the aforesaid terms.

S.A. BOBDE, J.